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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/096,589	06/12/1998	ROBERT J. SCHNEIDER	5914-65	1985

20583 7590 02/17/2004

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

EXAMINER	
PROUTY, REBECCA E	

ART UNIT	PAPER NUMBER
1652	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/096,589	SCHNEIDER ET AL.	
	Examiner	Art Unit	
	Rebecca E. Prouty	1652	

--Th MAILING DATE of this communication appears on th cover sheet with the correspondence address --

THE REPLY FILED 15 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☒ A Notice of Appeal was filed on *15 January 2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3.☒ Applicant's reply has overcome the following rejection(s): rejection of Claims 47-50 under 112, 2nd paragraph.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *47-54*.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Rebecca E. Prouty
Primary Examiner
Art Unit: 1652

Continuation of 5. does NOT place the application in condition for allowance because: the rejection of Claims 47-54 under 112, 1st paragraph for lack of a sufficient writt n description is maintained for the r asons of record. Applicants argue that the specification describes numerous compounds that can be used in accordance with the invention and specifically describes tyrosine kinase inhibitors including Csk, tryphostin derivatives, benzylidenemalonitrile derivatives, pyrazolopyrimidine derivatives, angelmicin B and small phosphotyrosine peptides. This is not persuasive because the specification describes all of these as examples of Src kinase enzymatic activity inhibitors and not examples of inhibitors of Src kinase activation as induced by HBV and/or HBx. The use of Src kinase enzymatic activity inhibitors is not covered by the instant claims. Claims to use of these compounds were issued in the parent application. As such the specification does not describe any compounds that are species within the currently claimed genus of compounds.

The rejection of Claims 47-54 under 103 as obvious over Moriya et al. is maintained. Applicants argue that the cited reference does not suggest a means for inhibiting HBV replication or infection by targeting cellular Src kinase activity, as required by the claimed invention. However, practicing the method, as claimed would have been obvious to the skilled artisan. No knowledge of whether the claimed method results in inhibition of Src kinase activiation is necessary. The methods made obvious by Moriya et al. will inherently produce inhibition of Src kinase activation mediated by HBx. Applicants argue that the pending claims are directed to methods comprising administering compounds that inhibit Src kinase activity. This is in fact incorrect. The claims are drawn to the the use of compounds which inhibit Src kinase activation not Src kinase enzymatic activity. Methods of using Src kinase enzymatic activity inhibitors is the subject matter of the parent application.